

**STATE OF CONNECTICUT***DEPARTMENT OF SOCIAL SERVICES***LONG TERM CARE OMBUDSMAN PROGRAM****25 SIGOURNEY STREET • HARTFORD, CONNECTICUT 06106-5033****Telephone Number: (860) 424-5200 Fax Number: (860) 424-4966****SELECT COMMITTEE ON AGING****Public Hearing****Tuesday, February 16, 2010****Written Testimony****Of****State Long Term Care Ombudsman****Nancy Shaffer**

Senator Prague, Representative Serra and distinguished members of the Select Committee on Aging, thank you for allowing me to submit this written testimony on behalf of the aging and disabled long term care consumers of Connecticut.

As you know, the Long Term Care Ombudsman Program is mandated by both federal and state statute to protect the health, safety, welfare and rights of the residents of Connecticut's long term care institutions. It is in this capacity that I comment on a number of the bills before you.

Raised Bill No. 103, AN ACT CONCERNING ACCESS TO COMPREHENSIVE FACTUAL INFORMATION REGARDING LONG-TERM CARE FACILITIES.

The Long Term Care Ombudsman Program supports this bill. A well-informed consumer is one who will be able to make the best and most appropriate choices for him or herself. The Ombudsman Program strongly supports measures in this regard. It is always the recommendation of this Program to educate consumers at all levels, including speaking to the Long Term Care Ombudsman Program and accessing the Long Term Care website and a wide variety of other consumer websites at both the state and federal levels as well as obtaining information from the providers themselves. I understand that some providers have previously argued against including the home's Five Star Rating into the Residents' Bill of Rights. I don't think most consumers make their decision based solely on review of one website and therefore I do not believe that including the Five Star Rating will either attract or deter residents on that basis alone. The very best consumer information is often obtained when he or she visits a facility and sees for themselves the kind of care provided and the environment in which it is provided. The Ombudsman Program always strongly recommends that consumers visit prospective facilities on a number of occasions and at different times of the day.

It may be appropriate to have further discussions on how best to convey information to the consumer, possibly a posting or as part of an admission packet would meet the best consumer protection standard.

As you are aware, the State of Connecticut experienced a number of facility bankruptcies, receiverships and closings in the past few years. The Ombudsman Program has had a number of complaints from consumers regarding lack of public information about the business status of a nursing home. While I believe it has been the best practice of state receivers in recent years to inform consumers prior to admission of the business status of the home they are not obligated by law to do so. Further, when a home is in bankruptcy there is no requirement to inform prospective residents that the home they are considering is in bankruptcy reorganization. I respectfully urge the legislators to consider how this information can be conveyed to consumers. It is so difficult to place a loved one in a nursing home, but imagine admitting your loved one to a home, then find out the home is in bankruptcy reorganization and later to learn you must relocate your loved one due to the home's closing. This has happened to Connecticut residents in the past few years. To be sure, many bankruptcy reorganizations do not end in the home closing, but it should be the consumer's right to have all of the information prior to making an admission decision.

Raised Bill No. 104, AN ACT ESTABLISHING A CAUSE OF ACTION FOR NURSING HOME FACILITIES AGAINST RECIPIENTS OF TRANSFERS OF ASSETS.

It has been the understanding of the Long Term Care Ombudsman Program that long term care facilities have always had the right to a cause of action to recover transfer of assets from resident to family members. In the experience of the Ombudsman Program, often times the resident may not even be aware that a transfer of his/her assets has taken place. With that understanding, the Ombudsman Program is unsure of the ramifications of this particular proposal and would ask to be a part of further discussions on how this may affect the residents. In the past year the Ombudsman Program has successfully advocated in a few cases for the Department of Social Services to extend to the resident what is called a "hardship" approval of the Medicaid application, this as well as other avenues to recoup assets for payment of services may be helpful to providers.

Raised Bill No. 105, AN ACT CONCERNING LIABILITY OF NURSING HOME OWNERS FOR NEGLECT AND ABUSE OF NURSING HOME RESIDENTS.

The Long Term Care Ombudsman Program strongly supports this proposal. The intent of this bill is to raise the level of accountability for abuse and/or neglect of nursing home residents. We all agree abuse and neglect of institutionalized individuals is abhorrent and unacceptable. We have laws and regulations to prevent such behavior and yet it still exists. The Ombudsman Program received complaints about abuse and neglect from families and residents during this past year some of which are too graphic to repeat.

What I want to convey to you is that many of these stories are accompanied by comments from the family member such as "how could this happen?" "I put my loved one where I thought they would be safe, well cared for," "aren't there safeguards in place to keep this from happening?" In most every instance, supervision, education and training, and ample staffing may well have prevented the abuse or neglect occurrence.

One argument in opposition to this legislation is that criminal liability is summarized in other legislation and regulation. This proposal, I believe, raises the level of awareness of accountability of owners and managers. This is not meant to insult or demean, but rather hopefully it gives pause to owners and managers to place emphasis where it is most important: on a philosophy of care that emphasizes quality and dignity of care and allocation of appropriate resources for supervision, education and training, and ample staffing.

Raised Bill No. 5113 AN ACT CONCERNING BILLING FOR SERVICES COVERED BY LONG-TERM CARE INSURANCE BY MANAGED RESIDENTIAL COMMUNITIES.

The Long Term Care Ombudsman Program supports this bill with a modification. As it reads the bill appears to provide safeguards for the Managed Residential Community (MRC) to be reimbursed by an existing long-term care insurance policy by allowing the resident to give permission to the MRC to prepare and submit claims for benefits to the insurer. I strongly recommend that the word "written" be inserted into Section 1 (a) (7) so that the line would read "Upon the written request of a resident who has a long-term care insurance policy, assist such resident with preparing and submitting claims for benefits to the insurer." Inserting **written** into the language gives the resident the protection that he or she has been given the opportunity to make that choice and that it is documented. As a suggestion, this statement could be included in contract/sign-in paperwork. I believe it is very important that the authorization is signed and a copy provided to the resident.

There are other bills before you which the Ombudsman Program also wants to go on record to support, including H.B. No. 5110, H.B. No. 5111, and H.B. No. 5112, each of which provides greater protections and supports to long-term care consumers.

Thank you for this opportunity to provide comments on behalf of Connecticut's long-term care residents.